

ASSEMBLY BILL

No. 433

Introduced by Assembly Member Bonnie Lowenthal

February 14, 2011

An act to amend Sections 103425, 103430, and 103435 of the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

AB 433, as introduced, Bonnie Lowenthal. Birth certificates: issuance.

Under existing law, whenever a person born in this state has undergone surgical treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, a new birth certificate may be prepared reflecting the change of gender and any change of name. A petition for the issuance of a new birth certificate is permitted to be filed in the superior court of the county in which the petitioner resides. Existing law requires the petition to be accompanied by an affidavit of the physician documenting the sex change and allows for the filing of objections by any person who can, in those objections, show good cause against the change in birth certificate.

This bill would allow a person who has undergone clinically appropriate treatment for the purpose of gender transition to file a petition in any superior court to recognize the change in gender and, additionally, if applicable, a name change and request for a new birth certificate. The bill would make the physician's affidavit conclusive proof of gender change if it contains specified language. The bill would not allow objections to be filed and would require the court to grant the petition if the affidavit shows that the petitioner has undergone clinically appropriate treatment for the purpose of gender transition.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 103425 of the Health and Safety Code
2 is amended to read:

3 103425. (a) ~~Whenever a person born in this state has~~
4 ~~undergone surgical treatment for the purpose of altering his or her~~
5 ~~sexual characteristics to those of the opposite sex, clinically~~
6 ~~appropriate treatment for the purpose of gender transition, the~~
7 ~~person may file a petition with the superior court in any county~~
8 ~~seeking a judgment recognizing the change of gender.~~

9 (b) *If requested, the judgment shall include an order that a new*
10 *birth certificate may be prepared for the person reflecting the*
11 *change of gender and any change of name accomplished by an*
12 *order of a court of this state, another state, the District of Columbia,*
13 *or any territory of the United States. A petition for the issuance of*
14 *a new birth certificate in those cases shall be filed with the superior*
15 *court of the county where the petitioner resides.*

16 SEC. 2. Section 103430 of the Health and Safety Code is
17 amended to read:

18 103430. (a) The petition shall be accompanied by an affidavit
19 of a physician ~~documenting the sex change attesting that the person~~
20 *has undergone clinically appropriate treatment for the purpose of*
21 *gender transition, based on contemporary medical standards, and*
22 *a certified copy of the court order changing the applicant's name*
23 *(if applicable), if applicable. The physician's affidavit shall be*
24 *accepted as conclusive proof of gender change if it contains*
25 *substantially the following language: "I, (physician's full name),*
26 *(physician's medical license or certificate number), am a licensed*
27 *physician in (jurisdiction). I attest that (name of petitioner) has*
28 *undergone clinically appropriate treatment for the purpose of*
29 *gender transition to (male or female). I declare under penalty of*
30 *perjury that the foregoing is true and correct to the best of my*
31 *knowledge."*

32 (b) The petition shall be heard at the time appointed by the
33 court ~~and objections may be filed by any person who can, in those~~
34 ~~objections, show to the court good reason against the change of~~
35 ~~birth certificate.~~ At the hearing, the court may examine on oath

1 the petitioner, and any other person having knowledge of facts
2 relevant to the application. At the conclusion of the hearing the
3 court shall ~~make an order to issue a new certificate, or dismissing~~
4 ~~the petition, as to the court may seem right and proper~~ *grant the*
5 *petition if the physician's affidavit shows that the person has*
6 *undergone clinically appropriate treatment for the purpose of*
7 *gender transition.*

8 (c) ~~A~~ *If the judgment includes an order for a new birth*
9 *certificate, a certified copy of the decree of the court ordering the*
10 *new birth certificate, shall, within 30 days from the date of the*
11 *decree, be filed with the State Registrar. Upon receipt thereof*
12 *together with the fee prescribed by Section 103725, the State*
13 *Registrar shall establish a new birth certificate for the applicant.*

14 (d) The new birth certificate shall indicate the sex of the
15 registrant ~~as it has been surgically altered~~ *specified in the judgment*
16 *of the court* and shall reflect any change of name specified in the
17 application if accompanied by a court order, as prescribed by
18 Section 103425. No reference shall be made in the new birth
19 certificate, nor shall its form in any way indicate, that it is not the
20 original birth certificate of the registrant.

21 SEC. 3. Section 103435 of the Health and Safety Code is
22 amended to read:

23 103435. In lieu of separate proceedings, a single petition ~~for~~
24 ~~a change of name and~~ *may be filed with the superior court to*
25 *change the petitioner's name and recognize the change to*
26 *petitioner's gender and, if requested, to order the issuance of a*
27 *new birth certificate reflecting a change of gender may be filed*
28 ~~with the superior court.~~ With respect to such a petition, the court
29 shall follow the procedure set forth in Title 8 (commencing with
30 Section 1275) of Part III of the Code of Civil Procedure; *however,*
31 *the order to show cause shall not include the petition to recognize*
32 *the change of gender.* A certified copy of the decree of the court
33 issued pursuant to this section shall, within 30 days, be filed with
34 both the Secretary of State and, *if the judgment includes an order*
35 *for a new birth certificate,* the State Registrar. Upon its receipt,
36 the State Registrar shall establish a new birth certificate as provided
37 in this article.